
(2023) 12 RAJ CK 0025

In the Rajasthan High Court

Case No : Criminal Appeal (SB) No. 2347 Of 2021

Happy Dahiya @ Harvinder Singh

APPELLANT

Vs

State Of Rajasthan And Others

RESPONDENT

Date of Decision : 08-12-2023

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(2)(v), 3(2)(Va), 14A
Indian Penal Code, 1860 — Section 147, 148, 149, 307, 323, 452
Code Of Criminal Procedure, 1973 — Section 439

Citation : (2023) 12 RAJ CK 0025

Hon'ble Judges : Kuldeep Mathur, J

Bench : Single Bench

Advocate : Jeetender Singh Khichi, Mool Singh Bhat

Final Decision : Allowed

Judgement

Kuldeep Mathur, J

The instant appeal has been filed under Section 14A SC/ST (Prevention of Atrocities) Act on behalf of the appellant, who is in custody in connection with F.I.R. No.556/2023, registered at Police Station Hanumangarh Junction, District Hanumangarh, for the offences under Sections 452, 307, 323, 147, 148 & 149 IPC and Sections 3(2)(v), 3(2)(Va) of the SC and ST (Prevention of Atrocities) Act against the order dated 19.09.2023 passed by the learned Special Judge Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act Cases, Hanumangarh, whereby, the bail application preferred under Section 439 Cr.P.C. on behalf of the appellant was rejected.

Heard learned counsel for the parties and perused the material available on record.

Drawing attention of the Court towards the F.I.R. and challan papers, learned counsel for the appellant submitted that specific allegation of using firearm has

been levelled against co-accused Saksham Leela and Raj Choudhary. It was urged that omnibus allegation has been levelled against the appellant. Learned counsel submitted that co-accused persons namely Ramesh, Sudhir and Dinesh have already been enlarged on bail by the competent criminal court. Learned counsel further submitted that another co-accused namely Rahul Punia has also been enlarged on bail by a coordinate Bench of this Court vide order dated 20.10.2023 in S.B. Criminal Appeal (Sb) No.2129/2023. Learned counsel submitted that the case of present appellant is not worse than that of the above named co-accused persons. It was submitted that the learned court below has grossly erred in law and facts as well in declining to release the appellant on bail. Learned counsel submitted that the appellant is in custody and trial of the case will take sufficiently long time to be concluded, therefore, the benefit of bail should be granted to the accused-appellant.

Learned Public Prosecutor has opposed the prayer for bail. However, he was not in a position to refute the fact that specific allegation of using firearm has been levelled against co-accused Saksham Leela and Raj Choudhary and above named co-accused persons have already been enlarged on bail by the competent criminal court as well as by a coordinate Bench of this Court.

Having regard to the entirety of facts and circumstances as available on record and upon a consideration of the arguments advanced at bar, so also the fact that specific allegation of using firearm has been levelled against the present appellant and other co-accused persons against whom similar accusation has been levelled have already been enlarged on bail, this Court is of the prima facie opinion that the order rejecting the application for bail filed on behalf of the appellant, cannot be sustained and deserves to be set aside.

Consequently, the instant appeal is allowed. The impugned order dated 19.09.2023 passed by the learned Special Judge Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act Cases, Hanumangarh, is set aside. It is ordered that the accused-appellant Happy Dahiya @ Harvinder Singh S/o Angraj Singh arrested in connection with F.I.R. No.556/2023, registered at Police Station Hanumangarh Junction, District Hanumangarh shall be released on bail; provided he furnishes a personal bond of Rs. 1,00,000/- and two surety bonds of Rs. 50,000/- each to the satisfaction of the learned trial Court with the stipulation to appear before that Court on all dates of hearing and as and when called upon to do so.